

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-21 are pending, Claims 3 and 6-21 having been amended by way of the present amendment.

In the outstanding Office Action Figure 1 was objected to for failing to include a legend; Claims 16, 18 and 21 were rejected as being anticipated by Kumar (U.S. Patent No. 6,269,080); and Claims 1-4, 6-9, 11-14 and 17 were rejected as being unpatentable over Kumar in view of Fukushima et al. (EP 1006689, hereinafter Fukushima); Claims 5, 10 and 15 were rejected as being unpatentable over Kumar in view of Fukushima and in further view of Marturano et al. (U.S. Patent No. 5,636,230, hereinafter Marturano); and Claims 19-20 were rejected as being unpatentable over Kumar as applied to Claim 18 in view of Buskens et al. (U.S. Patent No. 5,905,871 hereinafter Buskens).

In reply, the legend "prior art" has been added to Figure 1, as requested.

Claim 16 is directed to a wireless terminal which receives multicast information distributed from an information distribution apparatus and receives information transmitted from the information distribution apparatus according to retransmission control. The wireless terminal includes a timing determination part configured to determine a timing for transmitting a retransmitting request for information which requires retransmission. The language "means for determining", was replaced with -- part configured to determine -- so as to avoid an interruption under 35 U.S.C. § 112, sixth paragraph. The wireless terminal also includes a retransmission control part configured to transmit the retransmission request for the information with respect to the information distribution apparatus at the timing determined by the timing determination part.

The wireless terminal of Claim 16 also defines the retransmission control part as making no retransmission request for the information if the retransmission information is received from the information distribution apparatus before the timing determined by the timing determination part. Furthermore, Claim 16 defines the retransmission information as indicating that a retransmission request for the information has already been received by the information distribution apparatus. The retransmission information includes timing information indicating the predetermined timing at which the information will be retransmitted.

Thus, as is clear from the language and amendments to Claim 16, the retransmission information indicates that a retransmission request for the information has already been received by the information distribution apparatus. Furthermore, the retransmission information includes timing information indicating the predetermined timing at which the information will be transmitted from the information distribution apparatus.

Kumar is directed to a multicast file distribution system that selects an active receiver using an open token control system (see e.g. column 8, lines 6-10 and 17-34). In Kumar once the active receiver is selected using the open token, it is the active receiver that becomes responsible for retransmission requests (see e.g. column 7, line 61 to column 8, line 10). All receivers on the network are offered a chance to become the active receiver, but only one receiver is the active receiver at any given time.

Comparing Kumar with amended Claim 16, Kumar does not teach or suggest sending “retransmission information”, which indicates that a retransmission request for the information that is requested has already been received by the information distribution apparatus. Nor does Kumar teach retransmission information that includes timing information indicating the predetermined timing at which the information will be retransmitted from the information distribution apparatus.

Claim 18 is also rejected as being anticipated by Kumar. However, Claim 18 has been amended to define a wireless base station that includes a notifying part configured to notify retransmission information, which indicates that predetermined information has been requested by a retransmission request, to each of the wireless terminals within the service area. This retransmission information includes timing information like that described in amended Claim 16. Thus, for substantially the same reasons as discussed above with regard to Claim 16, it is respectfully submitted that Claim 18 also patentably defines over Kumar.

Claim 21 is directed to a wireless terminal that includes a retransmission request part configured to make a retransmission request with respect to a wireless base station when predetermined information that requires retransmission is generated. The wireless terminal also includes a control part configured to discontinue transmission of the retransmission request for the predetermined information from the retransmission request part when notified of retransmission information which indicates that a retransmission request for the predetermined information has been made from another wireless terminal at a timing before the retransmission request part makes the retransmission request.

Comparing amended Claim 21 with Kumar, Kumar does not describe the feature of discontinuing transmission of the retransmission request for the predetermined information when notified of the "retransmission information" that indicates that a retransmission request for the predetermined information has been made from another wireless terminal within the service area at a timing before the retransmission request was made. As all the features of amended Claim 1 are not found in Kumar, it is respectfully submitted that Kumar does not teach or suggest the invention defined by amended Claim 21.

Claim 1 is directed to retransmission control method that includes steps of transmitting a retransmission request at a timing determined by the wireless terminal when the information which requires retransmission is generated. The method also includes a step

of notifying retransmission information indicating the information requested by the retransmission request from the information distribution apparatus and retransmitting the information requested by the retransmission request from the information distribution apparatus at a predetermined timing.

The outstanding Office Action recognizes that Kumar fails to teach retransmitting the information requested by the retransmission request from the information distribution apparatus at a predetermined timing. However, Kumar also fails to teach the “retransmission information” discussed above with regard to Claim 16. Fukushima is merely cited for its description of retransmitting the requested information at a predetermined timing. However, Fukushima neither teaches nor suggest the “retransmission information” described above. Accordingly, because a requirement for a *prima facie* case of obviousness is that all the elements of a claim must be taught or suggested in at least one of the cited references, it is respectfully submitted that the outstanding Office Action has failed to make a *prima facie* case of obviousness with regard to Claim 1 because neither Kumar nor Fukushima teach or suggest the “retransmission information” of Claim 1.

For substantially the same reasons, it is respectfully submitted that independent Claims 6 and 11 also patentably define over the combination of Kumar in view of Fukushima. As Claims 7-8 depend from Claim 6 and Claims 12-14 depend from Claim 11, and Claim 17 depends from Claim 16, it is respectfully submitted that each of these claims also patentably define over the combination of Kumar in view of Fukushima.

Claims 5, 10 and 15 stand rejected as being unpatentable over Kumar in view of Fukushima and in further view of Marturano. Claims 10 and 15 have been amended as a matter of form to avoid an interruption under 35 U.S.C. § 112, sixth paragraph, but otherwise are believed to substantively define over the asserted prior art. Moreover, as Claims 5, 10 and 15 respectively depend from Claims 1, 6 and 11, it is respectfully submitted that the same

deficiencies of Kumar and Fukushima as discussed above with regard to Claims 1, 6 and 11 also apply to Claims 5, 10 and 15.

Marturano is asserted for its description of controlling an upper limit value of the number of retransmissions. However, Marturano does not teach or suggest the “retransmission information” that is discussed above, and is also absent in Kumar and Fukushima. Accordingly, it is respectfully submitted that no matter how Kumar, Fukushima and Marturano are combined, the combination does not teach or suggest all of the elements of Claims 5, 10 and 15, and therefore does not render obvious Claims 5, 10 and 15.

Claims 19 and 20 have also been amended to avoid an interpretation under 35 U.S.C. § 112, sixth paragraph, but otherwise these claims are believed to patentably define over the asserted prior art.

The outstanding Office Action recognizes that Kumar does not teach retransmitting the information at an arbitrary timing. Also, as discussed above, Kumar does not teach the “retransmission information”, discussed above. As Claims 18 and 20 depend from Claim 15, which as discussed above define over Kumar, it is respectfully submitted that Claims 19 and 20 also are different than the asserted prior art for at least the reasons discussed above with regard to Claim 18.

Buskens is asserted for its teaching of the retransmission of information at a timing that can be set arbitrarily. Even if this is the case, Buskens neither teaches nor suggest the “retransmission information” that is also absent from Kumar, and therefore no matter how Buskens is combined with Kumar, it is respectfully submitted that the combination does not render obvious the invention defined by Claims 19 and 20.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-21 as amended, patentably defines over the asserted prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

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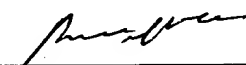
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